

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Witten Post Office  
Witten, South Dakota

Docket No. A2012-53

PUBLIC REPRESENTATIVE COMMENTS  
(January 13, 2012)

The Postal Service has determined to close the Witten, South Dakota post office and provide delivery and retail services by highway contract route service under the administrative responsibility of the Winner Post Office. Petitioners raise three issues: (1) the negative effect of the closure on the Witten community; (2) the impact on postal services available to Witten customers; and (3) the inaccurate calculation of economic savings resulting from the closure of the Witten post office. The Postal Service asserts that it followed all procedures and considered all factors required by law. After careful review of the Postal Service's Final Determination, the materials in the Administrative Record, the arguments presented by Petitioners, and the Postal Service Comments, the Public Representative concludes that the Postal Service has failed follow applicable procedures and rendered a decision that is not supported by substantial evidence. For the reasons set forth below, the Public Representative concludes the decision of the Postal Service to close the Witten post office should be remanded.

On November 4, and November 10, 2011, respectively, the Commission received an appeal from Mr. and Mrs. Calvin W. Adel (Petitioners Adel) and Cary Long

(Petitioner Long), objecting to the closing of the Witten, SD post office.<sup>1</sup> On November 18, 2011, the Commission issued Order No. 984, accepting the appeals, directing the Postal Service to file the administrative record, establishing a procedural schedule, and naming the undersigned Public Representative.<sup>2</sup> On November 21, 2011, the Postal Service filed the Administrative Record.<sup>3</sup> On November 29, 2011, the Commission received a letter of Intervention from Gayle Long, and a statement from Petitioner Long.<sup>4</sup> On December 29, 2011, the Postal Service filed Comments in lieu of a brief.<sup>5</sup> The Postal Service will provide delivery and retail services emanating from the Winner post office. FD at 2.

*Effect on Community:* The Witten community consists primarily of retirees, self-employed, farmers, ranchers, and has a substantial Native American population. AR Item No. 16 at 1; Id. item No. 13 at 1. Based on the questionnaires, many Witten residents travel to Winner for goods and services. See AR Item No. 22. Petitioners and Intervener, Gayle Long, raise the concerns that the discontinuance of the Witten post office violates the sense of trust the community has of the Postal Service, will harm local businesses, and create hardship for the elderly.

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<sup>1</sup> Petition for Review Received from Mr. & Mrs. Calvin W. Adel Regarding the Witten, SD Post Office 57584, November 4, 2011 (Adel Petition); Petition for Review Received from Cary Long Regarding the Witten, SD Post Office 57584, November 10, 2011 (Long Petition).

<sup>2</sup> Order No. 984, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 18, 2011.

<sup>3</sup> United States Postal Service Notice of Filing Administrative Record, November 21, 2011 (AR). The AR includes, the Final Determination to Close the Witten, SD Post Office and Establish Service by Highway Contract Route Service (FD). The AR consists of 51 items and identifies the FD as Item No. 47. All references thereto will be in the following format: FD at \_\_\_\_.

<sup>4</sup> Notice of Intervention Received from Gayle M. Long, November 29, 2011. (Gayle Long Intervention); Notice of Intervention Received from Cary Long, November 29, 2011 (Cary Long Intervention). It should be noted, since Cary Long is a petitioner in the afore-captioned case, the Cary Long Intervention is properly categorized as a participant's statement.

<sup>5</sup> United States Postal Service Comments Regarding Appeal, December 29, 2011 (Postal Service Comments).

The current discontinuance of the Witten post office is contrary to the commitment the Postal Service made to the Witten community to keep its post office at the same location for a period of 5 years. Three years ago, when the building in which the Witten post office was formally housed went up for sale, the mayor and Witten community worked to solidify an alternative property, its current location, at 119 E 1<sup>st</sup> Street, Witten, South Dakota 57584. See, FD at 4, Concern No.15; AR Item No. 13 at 1. Residents' volunteered labor and assumed the expenses and provided the supplies needed to refurbish an old building and bring it to post office code. *Id.* Consequently, when the Postal Service moved the location of the Witten post office to its present location, it made a commitment to the Witten community to remain at that location for a minimum of 5 years. FD at 4, Concern No.15. Petitioners Adel stated in their questionnaire, "Earlier this year [2011], someone from the postal service was in Witten and visited the area people and they were all in favor of keeping our P.O., and we were informed it would stay for at least 5 years." AR Item No. 22, Abel Questionnaire.<sup>6</sup>

Surprisingly, when confronted the Postal Service neither denies entering into the verbal contract (or making such a commitment) nor provides a substantive explanation for its violation. Instead, it responds, "We appreciate your comments. Your letter will be included in the packet that is sent to the District Manager and Headquarters for consideration." FD at 4, Concern No.15; *Id.*, at 5, Concern No. 18. The Postal Service's closing the Witten post office prior to the 5 years it committed to keeping it open, breaches the agreement it had with the Witten community. Such a breach disregards the time, effort, and expenses the community donated maintaining its postal service, blatantly violates the community's trust, and erodes the communal respect for the United States Postal Service.

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<sup>6</sup> The Postal Service's response to the Petitioners' Adel questionnaire does not address the issues the Adels raise. Instead, the Postal Service's response misstates the concern the Adels present in their questionnaire and goes on to address a completely different and non-existent concern, stating, "You stated that you would miss the special attention and assistance provided by the personnel at the suspended Post Office." AR Item No. 22.

The discontinuance of the Witten post office will have a dire effect on the both Witten residents and local businesses. The elimination of the Witten post office means the closest post office and the one now responsible for the Witten community's delivery and retail service is approximately 16 miles away, in Winner, SD.<sup>7</sup> This extended distance creates a hardship for residential customers in terms of time and also who must now assume the cost of travel expenses associated with making a 32 miles round-trip to the post office, which significantly cuts into the limited incomes upon which many Witten residents rely. See AR Item No. 22.

Witten businesses include Witten Feed and Grain that has a busy grain elevator and sells cattle feed supplement; Best Welding, a welding and repair shop used by the farmers and ranchers; a Village Grocery; Miss B Haven Goat Ranch, which sells soap and other products made from goats; American Fencing that repairs and builds fences for local ranchers; J & J Quilting, that makes quilts; The American Legion, that has monthly mailings; Witten Fire Department; and eating establishments. AR Item No. 13 at 1. The Postal Service responds to the community's business concerns by stating it has no evidence that Witten's business community will be adversely affected by the closure. The Postal Service bases its opinion on customers' questionnaires responses that gave no indication that customers would stop patronizing local businesses after the Witten post office closure of the location. FD at 3, Concern No. 7. However, the Postal Service fails to adequately address the issue. The Witten customers' concern is not whether local customers will continue to patronize local businesses; it is whether local businesses will be able to continue performing regular business functions in spite of losing the post office and having to obtain services through a less predictable highway carrier service. A business, unlike the average individual customer, does not know what postal services it will need on any given day, as its services and needs are often dependent on the demand of others. The closure of Witten post office requires local businesses to take a business risk each time they leave a package for carrier pick up or,

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<sup>7</sup> MapQuest estimates the shortest driving distance between the Witten and Winner post offices to be approximately 16.03 miles (25 minutes driving time).

in the alternative, travel 16 miles (32 miles roundtrip) to the nearest post office. The loss of the Witten post office will greatly waste Witten businesses' time and money. The sustainability of Witten businesses is essential to the sustainability of the Witten community.

Even the Post Office Review Coordinator concludes that the Witten post office should remain open and agrees that its closure will have a devastating impact on the Witten community. She comments on the efforts of the Witten community to spare its post office 3 years ago, and acknowledges that local businesses will suffer as a result to having services provided by a post office 16 miles away. As a result, the Post Office Review Coordinator tells Postal Service authorities, "this community is very supportive," and concludes, "they need to have a local post office." AR Item No. 13 at 1-2.

Petitioner Long and Intervener Gayle Long assert that the closure of the Witten post office will create a hardship for the elderly and handicapped members of the Witten community, especially in inclement weather. Gayle Long Intervention; Carey Long Intervention. The Postal Service informed Witten customers that carrier service may be beneficial to many senior citizens and those with special challenges because the carrier can provide delivery and retail services to roadside mailboxes. FD at 4; Postal Service Comments at 7. Since most transactions can be accomplished by meeting the carrier at the mailbox, it eliminates the need to travel to a post office to obtain many of the regular postal services. *Id.* In addition special provisions are made for hardships cases or customers with special needs. *Id.*

To quell Witten customers' concerns that the inclement weather will create a mail delivery and retrieval problem, the Postal Service attempts to reassure them that inclement weather and heavy mail volume may cause schedule deviations, but a carrier is required to be provided with an equipped vehicle and to serve his/her route safely and efficiency. AR Item No. 22 at 25. Again, the Postal Service is skirting the issue. The customers' worry is not limited to whether the carrier will be equipped with vehicle, but whether the carrier will be available during the proffered time range; accessible to

residents; and able to handle seasonal surges in postal service needs. Cary Long Intervention; see AR Item No. 22. The Postal Service does not address these worries.

The Postal Service must revisit the effect the closure will have on the Witten community. Currently, the Postal Service's disregard for the negative effects of the closure of the Witten post office, especially regarding the 5 year commitment and impact on local businesses, supports a remand of the closure.

*Effect on Postal Services:* Petitioners Adel and Long raise valid concerns regarding the effect the closure of Witten post office will have on the timeliness and security of their mail.

As a result of the closure of the Witten post office, Witten customers will receive delivery service from a highway contract carrier emanating from the Winner post office.<sup>8</sup> In order to conduct postal transactions, Witten customers may: utilize cluster box units (CBUs) in which they may leave or collect parcels: attempt to meet the carrier during a specific daily time-range; or travel the distance of approximately 16 miles to the Winner post office.<sup>9</sup> While these alternatives provide Witten customers with a range of postal options, they are not the most convenient or practical.

Security of the Witten mail is a valid concern. Cary Long Intervention; FD at 5, Concern No. 18. External CBUs are not practical and secure as a primary mail medium, as they render mail vulnerable to weather conditions and theft. Individual's personal CBU boxes are locked and not large enough to receive standard packages such as boxes of bank checks or medications (both of which are sensitive in content). External CBU boxes, as those the Postal Service plans to install in Witten, will subject their contents to elements. This may cause temperature sensitive materials such as medications to freeze or heat up, thus risking material degradation and contamination.

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<sup>8</sup> The Postal Service does not confirm whether contract carriers are subject to the same standards, expectations, and oaths to uphold the sanctity of the mail as are the sworn members of the Postal Service.

Also, while CBUs do contain a communal section for larger parcels, all individuals with private CBU boxes on a particular CBU stand will have a key enabling them to access the stand's communal parcel section. Consequently, also enabling all stand key holders the ability to take any parcel delivered and left in that stand's parcel section. The Postal Service's responses to Witten customers' security concerns are limited and inadequate. First, the Postal Service informs customers that the carrier can leave the route of travel to receive packages and is able deliver the packages up to ½ mile off the line of travel at a designated location. FD at 2. However, this solution still leaves packages out in the open, vulnerable to weather and theft. Second, the Postal Service attempts to discount Witten customers' fear of vandalism and theft by referencing the Tripp County Sherriff's report that there have been no recorded incidents of mail theft or vandalism. AR Item No. 14. While the Tripp County Sherriff's Office provides no record of postal theft or vandalism in the Witten community, it is important to note that the Witten post office had a live employee, housed 76 post office boxes located within four structural walls, and did not provide delivery service to free standing receptacles. AR Item Nos. 14; 15 at 2; and 16 at 1. These present circumstances markedly different, and arguably more secure, than those the Postal Service is offering Witten customers, now.

Petitioners raise the valid concern that the re-routing Witten mail will delay delivery times. Long Petition; Adel Petition; Cary Long Intervention. Oddly, the Postal Service admits that irregular hours are associated with rural carrier routes, and that carriers "strive" to provide services at the same time, daily; however mail volumes and weather conditions "often effect delivery times." FD at 2. The Postal Service's response offers no solution or remedy, but rather simply transforms the Witten customers' concern into an affirmative explanation.

The Postal Service fails to consider viable alternatives to service. The Postal Service tells Witten customers it will suggest to Headquarters that indoor "swivel boxes" may be a secure and accessible option with the carrier delivery service. FD at 7 Concern, No. 37. The Administrative Record contains no evidence that Witten swivel boxes were considered past this point. The Postal Service also tells the Witten

community it will “check on the regulations for [a contract postal service]” in response to a customer suggestion, yet there is no documentation indicating such a “check” or constituting a follow-up of any kind. FD at 6, Concern No. 25. Witten’s local businesses, large demographic of senior citizens and agricultural workers, and the fact that the Winner post office is 16 miles away, makes it an ideal community in which to install the Postal Service’s, once touted, Village Post Office. Yet, this option is neither mentioned nor explored anywhere in the Administrative Record.

While the Postal Service provides several options for the Witten community to receive postal services, it does not provide options that guarantee regular and efficient service. In fact, the Administrative Record shows the Postal Service did not considered other options, including the Village Post Office, which may be the Witten community’s most viable option for regular and efficient service.

*Economic Savings:* The Postal Service estimates it will save \$15,743, annually, through the closure of the Witten post office. Petitioners Adel and Long argue the Postal Service’s estimated economic savings are inaccurate. The Public Representative agrees. Adel Petition; Long Petition.

The Postal Service should be compelled to use current finances to compile its savings tally, in this case, the salary and any benefits (if any) paid to the OIC. The Witten postmaster retired January 3, 2007. FD at 2. Consequently, any and all Witten post office savings attributable to the retired postmaster are a one-time savings, have already been received and should not be considered at this time. It is inappropriate for the Postal Service to attribute savings regarding a departed postmaster, ad infinitum simply because the mere option to fill the vacancy exists, especially if it has been shown that the post office functioned without this position. Permitting the Postal Service to use out-of-date costs or purport savings that are not substantially supported by the record is misleading, imprecise, and constitutes statutory grounds for a remand. 39 U.S.C. § 404.



*Conclusion.* The Postal Service's determination to discontinue the Witten post office negatively affects the Witten community and local businesses. It violates the Postal Service's commitment to keep the Witten post office, located at the 119 E 1<sup>st</sup> Street, open for a minimum of 5 years. The Postal Service fails to propose practical alternatives and thereby fails to demonstrate it can continue to provide Witten customers with regular and efficient retail and delivery service. The Postal Service miscalculates, in its favor, the expected savings from the Witten post office closure and presents data that is substantially unsupported by the record. For these reasons, and others aforementioned, the Public Representative concludes the decision of the Postal Service to close the Witten, South Dakota post office should be remanded.

Respectfully Submitted,

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